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FILED
DISTRICT COURT OF GUAM
MAR 29 2006
MARY L.M. MORAN
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF GUAM

UNITED STATES OF AMERICA,) MAGISTRATE CASE NO. 05-00045
vs.)
Plaintiff,)
JUSTIN KEITH GUERRERO and)
RENEA DORLEEN CRUZ-TAITANO,)
Defendants.)

ORDER
re Motions to Suppress

This matter is before the Court on two (2) motions to suppress evidence and statements, filed by the Defendants Justin Guerrero (“Guerrero”) and Renea Cruz-Taitano (“Cruz-Taitano”). Upon due consideration of the parties’ argument and review of the testimony adduced at the evidentiary hearings,¹ the Court hereby issues the following Order.

PROCEDURAL BACKGROUND

On September 9, 2005, an Information was filed charging the Defendants with the possession of approximately one (1) gram of methamphetamine hydrochloride, in violation of 21 U.S.C. § 844(a). (Docket No. 1.) The offense is a Class A misdemeanor.

¹ Although this Court heard days of testimony and evidence in relation to other motions to suppress stemming from this same investigation (see United States v. Mesa, et al., Criminal Case No. 05-00066), the Court limits its factual findings and conclusions herein to the testimony and evidence presented during the hearings held on January 5, 6, 9, and 11-13, 2006.

On October 14, 2005, the Defendants each filed a motion to suppress the physical evidence obtained and all statements made by them following their detention and arrest on September 8, 2005. (Docket Nos. 20 and 21.)

4 On November 18, 2005, pursuant to 18 U.S.C. § 3401(b), Cruz-Taitano consented to the
5 trial, judgment and sentencing before the below-signed Magistrate Judge. (Docket No. 33.) On
6 November 28, 2005, Guerrero likewise consented. (Docket No. 37.)

7 The Court held hearings on the suppression motions on January 5, 6, 9, and 11-13, 2006.
8 Thereafter, the Court took the matter under advisement.

FINDINGS OF FACT²

On September 8, 2005, Danny Cho (“Cho”), a criminal investigator with the Drug Enforcement Administration (“DEA”), applied for and obtained a search warrant for Room 755 at the Guam Reef Hotel in Tumon, Guam. The search warrant application was based in part on information Cho received from an anonymous caller who reported that four (4) individuals – Jess Espinosa, Joey Mesa, Ginger Hamamoto, and Shardae Love (“Love”) – were engaged in the manufacturing of methamphetamine at the hotel. The search warrant application also included information Cho gathered as a result of his further investigation into the matter. For instance, Cho passed the information received from the anonymous caller to the Violent Street Crimes intelligence unit of the Guam Police Department (“GPD”), and GPD subsequently advised Cho that it had a booking photo of Love, who had been arrested in August 2005 for unknown charges. Following a visit to the Guam Reef Hotel, Cho learned from the hotel management staff that Love was staying at the hotel with some male friends and had changed rooms every day of their three-day stay at the hotel. Cho also personally observed Love enter the lobby of the hotel carrying combustible fuel and water in two shopping bags. Cho questioned Love who provided conflicting statements about her purpose for bringing combustible fuel to the hotel. A search warrant for Room 755 was thereafter issued by Judge

² To the extent that a finding of fact should be deemed a conclusion of law, or a conclusion of law deemed a finding of fact, it shall so be considered and incorporated.

1 Otero at approximately 8:45 p.m. that day.

2 With the warrant in hand, Cho proceeded to a predetermined briefing site located at the
3 parking lot across from the Okura Hotel in Tumon. There Cho briefed the other law
4 enforcement personnel who would be assisting in the execution of the search warrant. Among
5 said personnel was Barbara Tayama (“Tayama”), a female officer with Guam Customs &
6 Quarantine who had been tasked to the U.S. Immigration & Customs Enforcement (“ICE”)
7 division. Tayama’s assignment that day was to assist with the processing or interviewing of any
8 female individual associated with Cho’s investigation into unlawful drug activity occurring at
9 the Guam Reef Hotel. Cho explained that a search warrant had been issued. He discussed the
10 nature of the investigation, and stated that because there was possibly a methamphetamine
11 laboratory in operation in the room, all officers should remain alert and aware. This briefing by
12 Cho lasted approximately 10 to 15 minutes.

13 Cho and the others then left the briefing site for the Guam Reef Hotel. At the hotel, Cho
14 met briefly with the hotel security manager, while Love, Tayama and the other officers gathered
15 at the seating area in the first floor lobby near the front desk. Tayama then saw a “young local
16 couple” later identified as the Defendants enter the hotel and walk into the lobby area. The
17 Defendants walked toward the elevators on the right, which led to rooms in the hotel wing
18 opposite from where Room 755 was located. Tayama noticed that when the Defendants entered
19 the hotel, Love appeared nervous. Tayama testified that she observed Love slide down on the
20 chair in which she was seated and then attempt to cover her face with her jacket, appearing as if
21 she did not want the Defendants to see her. Tayama then asked Love if she knew the couple,
22 but Love denied knowing them.

23 John Duenas (“Duenas”), a criminal investigator with ICE, was also near Love in the
24 lobby area, and he, too, observed the Defendants walk into the lobby and then noticed that Love
25 dropped her head and looked the other way in an attempt to hide her face. Duenas and Tayama
26 then briefly discussed their observations of Love’s reaction to the Defendants.

27 Shortly thereafter – approximately two (2) to three (3) minutes after having observed the
28 Defendants in the hotel lobby, according to Tayama – Love was escorted to the seventh floor of

the hotel by Cho and the other officers. Love had previously agreed to assist Cho by knocking on the door of Room 755 so that the occupants therein would open the door upon seeing her through the peep hole. Tayama testified that Love appeared quiet and nervous when they arrived on the seventh floor. After the door was opened and the entry team went into Room 755, Tayama quickly escorted Love away from Room 755 and had her sit by the seating area near the elevators. Tayama, Duenas, and the other officers who were not part of the entry team waited in the seventh floor lobby area by the elevators for further instructions from Cho.

Not long thereafter,³ Tayama again spotted the Defendants as they exited the elevator on the seventh floor.⁴ Tayama noticed that Love again tried to hide her face with her jacket, which Tayama interpreted as Love trying to avoid eye contact with the Defendants. Based on Love's reaction, Tayama asked a fellow male officer to watch Love and then quickly approached Cruz-Taitano in front of the elevators. Simultaneously, Erwin Fejeran ("Fejeran"), a task force agent assigned to ICE, intercepted Guerrero at the elevators as he exited. Duenas followed Fejeran to assist since neither were part of the entry team. Tayama identified herself and explained that there was an on-going investigation at the hotel. Tayama then instructed Cruz-Taitano to follow her and proceeded to "escort" or "guide"⁵ Cruz-Taitano down the hallway to the right of the elevators and away from Room 755, while Fejeran asked Guerrero to step aside to the area in front of what is marked as elevator "2" in Exhibit A.

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³ Tayama approximates this period as being one minute from the time Love was first taken to the seating area on the seventh floor.

⁴ According to Tayama, the time between her initial sighting of the Defendants in the first floor lobby and her second observation of them as they exited the elevators on the seventh floor was approximately 10 to 15 minutes.

⁵ When asked to explain what Tayama meant when she said that she had “escorted” or “guided” Cruz-Taitano away from the elevator area, Tayama demonstrated that she placed her right hand on Cruz-Taitano’s left elbow and then led her down the hallway to the right of the elevators. Tayama denies grabbing Cruz-Taitano out of the elevator or pulling her down the hallway.

1 Tayama took Cruz-Taitano approximately 30 feet⁶ from the elevators down the hallway
2 to the right. Tayama testified that she led Cruz-Taitano to this area because of concerns that
3 Cruz-Taitano could be exposed to fumes or chemical odors that may emanate from Room 755
4 and because there was too much distraction by the elevator area based on the activities
5 associated with the search warrant execution. Tayama asked Cruz-Taitano for her name and
6 identification. Cruz-Taitano stated her name and produced her Guam Identification Card as
7 requested. Tayama then asked Cruz-Taitano what she was doing at the hotel, to which she
8 responded that she was there with her boyfriend Justin to visit his friend. When Tayama asked
9 what this friend's name was, Cruz-Taitano said his name was "Joe" and she wasn't sure of his
10 last name but it could be "Mesa." Tayama asked whether Cruz-Taitano had any weapons,
11 knives, sharp objects, drugs or paraphernalia on her person,⁷ to which Cruz-Taitano responded
12 "no." Tayama did not conduct a pat down of Cruz-Taitano at this time. Tayama then told Cruz-
13 Taitano to wait there with her until things calmed down at the other end of the hallway
14 (referring to the activity occurring near Room 755). Tayama waited for further instructions
15 from Cho, the lead agent, as to what she should do with Cruz-Taitano. Tayama never told
16 Cruz-Taitano that she was free to leave at any time. In fact, Tayama testified that if Cruz-
17 Taitano attempted to leave, Tayama would have detained her. Cruz-Taitano also testified that
18 she did not believe she was free to leave at this time.

19 Meanwhile, Fejeran questioned Guerrero in the area by the elevators. Fejeran asked
20 Guerrero what he was doing at the hotel, and Guerrero replied that he was there to visit his
21 friend "Joe." Fejeran asked for Joe's last name, but Guerrero said he didn't know the last name.
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23 ⁶ During cross-examination, defense counsel Curtis Van de veld asked Tayama how far
24 down the hallway did she take Cruz-Taitano. Tayama stated that she wasn't sure of the exact
25 distance but believed that it was the distance from the witness stand to the swing doors that lead
26 into the well of the courtroom. Attorney Van de veld estimated this distance to be about "30
feet."

27 ⁷ Tayama testified that the purpose of asking this question was for her safety and the
28 safety of Cruz-Taitano.

1 Fejeren asked Guerrero where he was headed, and Guerrero said "Room 756." Duenas then
2 informed Guerrero that they were currently conducting a narcotics investigation at the hotel.
3 Guerrero then became irate and stated that he had nothing to do with narcotics. Duenas then
4 asked Guerrero to show them where his friend Joe was, and Guerrero proceeded down the
5 hallway to the left of the elevators, with Duenas and Fejeren following beside him. Said
6 hallway was where Room 755 was located. Guerrero walked past Room 755 and stopped in
7 front of the door to Room 754. Duenas told Guerrero to knock and ask for Joe, but Guerrero
8 refused. Then Duenas told Guerrero that earlier Guerrero stated that he was there to visit Joe in
9 Room 756, yet Guerrero had taken them to Room 754.⁸ Guerrero again appeared upset and
10 repeated that he was not involved in any narcotics activity. Guerrero was then taken back to the
11 seating area near the elevators, where Duenas asked to see his identification and also conducted
12 a pat down of Guerrero. Guerrero was then placed in one of the chairs in the seating area where
13 Love was still seated.

14 After some time had passed – which Tayama approximates as being about 20 minutes –
15 Tayama learned that items associated with a methamphetamine laboratory were discovered in
16 Room 755 and was instructed by Cho to transport Cruz-Taitano to DEA's Guam Resident
17 Office for further questioning. Tayama then spoke to Cruz-Taitano and advised her that for
18 "officer safety" Tayama would have to pat down Cruz-Taitano. Tayama explained the manner
19 in which the pat down would be conducted. Tayama testified that she then gave Cruz-Taitano
20 "a second opportunity" to declare whether Cruz-Taitano had any weapons, knives, sharp
21 objects, drugs or paraphernalia on her person before the pat down could be conducted. To this
22 remark, Cruz-Taitano then responded that she had "something." Tayama testified that she
23 asked what was the something to which Cruz-Taitano was referring. Cruz-Taitano then pointed
24 to the black bag she was wearing and said she believed it was a pipe. Cruz-Taitano then

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28⁸ Room 756 was actually located in the hallway to the right of the elevators – opposite from where Guerrero had led Duenas and Fejeren.

1 unzipped her bag, opened a smaller pouch⁹ within the bag, and showed Tayama what appeared
2 to be a glass pipe contained therein. Tayama testified that although the glass pipe was covered
3 in clear plastic wrapping, she could distinctly see that it was a pipe.¹⁰ Next, Tayama asked
4 Cruz-Taitano to remove the bag and hand it to over to her. Tayama then asked a fellow officer
5 (Raymond Taimanglo) to hold the bag while she proceeded to pat down Cruz-Taitano.
6 According to Tayama, Taimanglo never left her side as she conducted a pat down of Cruz-
7 Taitano. Tayama testified that except for a momentary period when Cruz-Taitano had turned
8 around during the pat down, the bag never left Cruz-Taitano's sight while at the hotel. Tayama
9 testified that neither she nor Taimanglo opened Cruz-Taitano's bag at the hotel. Instead, later
10 that night, Tayama had the opportunity to inventory the contents of Cruz-Taitano's bag at the
11 DEA office, and it was during this inventory search that Tayama discovered two plastic straws
12 containing suspected "ice" inside the smaller fabric pouch which held the pipe.

13 Tayama's testimony regarding the discovery of the straws of "ice" is in direct conflict
14 with Duenas's testimony. According to Duenas, Tayama told him that a pipe and straws of
15 "ice" were obtained from Cruz-Taitano before the officers left the hotel and transported the
16 Defendants to the DEA Resident Office. Based on Duenas's testimony, the discovery of the
17 straws of suspected "ice" had to have resulted from a search at the hotel of the fabric pouch
18 within Cruz-Taitano's bag.

19 Tayama's testimony differs from Cruz-Taitano's testimony. According to Cruz-Taitano,
20 during the 20-minute wait at the right hallway area, she did not have any contact with Guerrero
21 because Tayama instructed her not to look toward the hallway which led to where Guerrero was
22 being detained. Cruz-Taitano was sitting on the floor while she waited, and then Tayama
23 instructed her to stand. Cruz-Taitano again tried to look down the hallway for Guerrero, but
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25 ⁹ Tayama described this pouch as being a black fabric sunglass pouch.

26 ¹⁰ Tayama testified that Government Exhibit 1 poorly depicts the contents of Cruz-
27 Taitano's bag and the glass pipe that was shown to her, because one cannot clearly tell by
28 looking at the photograph that the white-colored object in the center of the photograph is the
glass pipe.

1 Tayama told her to face the wall. Before Tayama patted her down, Tayama asked Cruz-Taitano
2 again if she had any drugs, weapons, knives or sharp objects, and she replied "something."
3 Tayama asked her what that something was, and Cruz-Taitano said "a pipe." Cruz-Taitano then
4 stated that she unzipped her bag. Tayama then asked Cruz-Taitano to hand the bag over to her.
5 Cruz-Taitano removed the bag from around her shoulder and handed it to Tayama. Cruz-
6 Taitano testified that she did not show the pipe to Tayama and that when she handed the bag to
7 Tayama, the drawstring to the pouch containing the pipe was still closed. Tayama then gave
8 the bag to another officer (Taimanglo) while Tayama conducted the pat down. Cruz-Taitano
9 testified that Taimanglo walked away with the bag while she was being patted down by
10 Tayama. Approximately ten minutes later, Taimanglo returned with the bag. Cruz-Taitano
11 further stated that she never gave anyone permission to search her bag.

12 Based on Cho's instructions, Tayama and Duenas transported the Defendants to the
13 DEA headquarters for processing and further questioning. The Defendants were handcuffed
14 and brought to the DEA office in separate vehicles. The Defendants were later advised of their
15 Miranda rights and interrogated. Both Defendants subsequently made oral and written
16 admissions.

17 CONCLUSIONS OF LAW

18 The Defendants assert that the officers first violated their Fourth Amendment rights
19 when the officers initially stopped them as they exited the elevators on the seventh floor and
20 then separated them from each other. The Defendants contend that from this point they were
21 unlawfully seized and essentially arrested without justification or probable cause. The
22 Defendants claim they were not free to leave based on the overwhelming presence of many law
23 enforcement officers in the hallway area, the officers' authoritative demeanor and actions, and
24 the fact that the Defendants were not permitted to see or speak with each other.

25 The Fourth Amendment prohibits unreasonable searches and seizures by the
26 Government. The Supreme Court imposes a presumptive warrant requirement for searches and
27 seizures, and generally requires probable cause for a warrantless search or seizure to be
28 reasonable. See Ornelas v. United States, 517 U.S. 690, 693 (1996) ("warrantless search of car

1 is valid if based on probable cause"); United States v. Watson, 423 U.S. 411 (1976) (warrantless
2 arrests based on probable cause are reasonable under the Fourth Amendment). However, an
3 exception to the probable cause requirement is recognized for an investigatory detention – often
4 referred to as a Terry stop – wherein police may temporarily detain an individual, question him
5 briefly, and perform a limited pat-down frisk for weapons based upon reasonable suspicion.
6 See Terry v. Ohio, 392 U.S. 1, 22-24 (1968). Reasonable suspicion has been defined to mean a
7 combination of "specific and articulable facts which, if taken together with rational inferences
8 from those facts" reasonably suggest that criminal activity has occurred or is about to occur. Id.
9 at 21. A case-by-case analysis is required to determine whether the police had reasonable
10 suspicion, and courts look to the "totality of the circumstances" which surrounded the
11 encounter. United States v. Cortez, 449 U.S. 411, 417 (1981).

12 The inquiry for the Court then is whether the officers had reasonable suspicion at this
13 point in the investigation to temporarily detain the Defendants. The Court must determine what
14 specific and articulable facts did the officers have at this initial stage (*i.e.*, the approach at the
15 elevator, Tayama's escorting of Cruz-Taitano to the right hallway area, and the detention of
16 Guerrero by elevator 2) to reasonably suggest that the Defendants were involved in criminal
17 activity or were about to engage in criminal activity.

18 The law enforcement officers – Tayama, Duenas and Fejeran included – had been
19 briefed prior to executing the search warrant that an anonymous caller had implicated Love and
20 three other individuals in the manufacturing of methamphetamine at the Guam Reef Hotel.
21 Additionally, they were aware that the hotel management had stated that Love and her
22 companions had been staying in the hotel for the past three days and had changed rooms each
23 day of their stay. Moreover, the officers were advised that when Love was detained earlier at
24 the hotel, she had in her possession a gallon of water and a container of combustible fuel – two
25 key ingredients used to manufacture methamphetamine. Based on the information received
26 during the briefing, the officers knew that there was a strong possibility that evidence of
27 methamphetamine manufacturing would be found in Room 755.

28 In addition to the information received at the briefing, Tayama and Duenas both saw

1 Love's reaction to the Defendants' entrance into the hotel lobby. Tayama testified that Love
2 appeared nervous upon seeing the Defendants, and then Love slid down in her seat and
3 attempted to cover her face with her jacket. Duenas stated that Love dropped her head and
4 looked away. Both Tayama and Duenas described Love's response as an attempt by Love to
5 prevent the Defendants from seeing her. Tayama again noticed a similar reaction from Love
6 when the Defendants exited the elevators on the seventh floor.

7 The Defendants claim that Love's alleged reaction to their presence is insufficient to
8 sustain a finding of reasonable suspicion. The Defendants contend that it is common for
9 individuals who have been arrested or detained by the police to act nervous. Furthermore,
10 arrestees or detainees often attempt to shield their faces from the public because of a sense of
11 shame or embarrassment. Thus, the Defendants assert that the reaction by Love as observed by
12 Tayama and Duenas was not a direct response to the Defendants' presence; rather, Love's
13 reaction was a result of the fact that she was being detained by the police in a public place.
14 While the Court agrees that this argument has merit, the Court is mindful that considerable
15 deference is often given to the observations and conclusions of an experienced officer since he
16 or she can infer criminal activity from conduct that would otherwise seem innocuous to an
17 untrained, lay observer. See United States v. Santamaria-Hernandez, 968 F.2d 980, 984 (9th Cir.
18 1992) (experienced border patrol agent had reasonable suspicion to stop vehicle based on facts
19 presented); Guam v. Ichiyasu, 838 F.2d 353, 356 (9th Cir. 1988) (reasonable suspicion to stop
20 taxi when officer had knowledge of expected escape route and taxi passenger's otherwise
21 innocent appearance was "out of place"); United States v. Bautista, 684 F.2d 1286 (9th Cir.
22 1982) (reasonable suspicion to stop men three blocks from getaway car when it had been
23 raining and men appeared dry).

24 When the Defendants exited from the elevator on the seventh floor, did law enforcement
25 officials have reasonable suspicion to detain them? The government argues that reasonable
26 suspicion existed because (1) Tayama observed Love slide down from her seat when the
27 Defendants entered the Guam Reef Hotel lobby and Duenas observed Love turn her head
28 sideways (both reactions in an attempt to avoid being seen by the Defendants) and (2) the

1 Defendants¹¹ were present at the seventh floor, right next to Room 755, the suspected locations
2 where a methamphetamine lab was believed to be in operation. Their presence came shortly
3 after the execution of the search warrant upon Room 755.

4 The Court must determine whether “reasonable” suspicion existed from the totality of
5 the circumstances at this point in time to justify the Defendants’ detention. The Court must thus
6 ascertain what specific and articulable facts the officers had at this initial stage. Reasonable
7 suspicion must be based upon particularized facts. Here, the Defendants first appeared in the
8 lobby area of the hotel approximately ten to fifteen minutes before they were again seen and
9 detained at the seventh floor. When the Defendants entered the lobby area, Tayama and Duenas
10 both observed Love react in a manner they concluded was for the purpose of avoiding being
11 seen by the Defendants. Tayama said Love slid down on her seat while Duenas said she turned
12 her head. Later, the Defendants were seen exiting the elevator on the seventh floor, which is
13 located right next to Room 755, the location of the presumed meth lab. Tayama testified that
14 she again saw a similar reaction from Love when the Defendants exited the elevator on the
15 seventh floor.

16 In determining whether reasonable suspicion existed from the aforesaid circumstances at
17 this point in time, the Court must focus its inquiry on the circumstances which required the
18 presence of the law enforcement officials at the Guam Reef Hotel, and in particular to Room
19 755.

20 Acting on a tip that *Shardae Love, Jess Espinosa, Ginger Perez Hamamoto and Joey*
21 *Mesa were engaged in the manufacturing of methamphetamine at Guam Reef Hotel*, DEA
22 agents went to the hotel to investigate and found Love. After detaining and questioning Love,
23 Love agreed to assist the DEA agents in the execution of a search warrant on Room 755. Love
24 and the officers were at the lobby of the Guam Reef Hotel when the Defendants first entered.
25 They were preparing to go up to the seventh floor to execute the search warrant on Room 755.

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28 ¹¹ Tayama also testified that she observed Love make a similar reaction to the one she
made when she initially saw the Defendants in the lobby area.

1 After having observed Love's reaction upon seeing the Defendants in the lobby, the officials
2 asked Love whether she knew the Defendants. Love replied that she did not. Love was then
3 taken up to the seventh floor and she knocked on the door. The door was opened and the agents
4 converged upon the room and secured the area within minutes. Individuals were found in
5 Room 755.

6 Minutes after the execution of the warrant, the Defendant exited the elevator on the
7 seventh floor. Tayama again observed a similar reaction from Love, and the Defendants were
8 immediately confronted separately by the officials as they exited and were detained. Cruz-
9 Taitano was taken to the right of the elevator past Room 755, and Guerrero was detained in
10 front of elevator 2. Did the officers have particularized facts to reasonably suspect that the
11 Defendants had engaged in criminal activity or were about to engage in criminal activity? More
12 simply stated, did there exist articulated facts which would provide reasonable suspicion that
13 the Defendants had engaged in the manufacturing of methamphetamine or were about to engage
14 in such manufacturing?

15 As the Court has pointed out, Love denied knowing the Defendants. When this denial is
16 weighed against Love's reactions as observed by Tayama and Duenas, it fails to provide
17 reasonable suspicion. The Court notes that Love was cooperating with the officials at that
18 point. Furthermore, the appearance of the Defendants on the seventh floor likewise provided no
19 reasonable suspicion that the said individuals had engaged in, were engaging in, or were about
20 to engage in the manufacture of methamphetamine. The officials could only detain the
21 Defendants if there was reasonable suspicion the individuals were connected to the activities
22 associated with Room 755 or with the manufacturing of methamphetamine at the Guam Reef
23 Hotel. The combination of events (Love's reaction at the lobby area and similar reaction as the
24 Defendants appeared on the seventh floor) possible could have provided some suspicion. The
25 test, however, of a valid detention is not one of having some suspicion but whether there was
26 *reasonable* suspicion. The officials had no facts suggesting that the Defendants were occupants
27 of Room 755. The officers had no facts which showed the Defendants had any other connection
28 to Room 755 or the manufacturing of methamphetamine at the Guam Reef Hotel. Moreover,

1 the Defendants were not in possession of any material, article or object which could be
2 associated as an ingredient necessary or used in the methamphetamine manufacturing process.¹²

3 It has been suggested by law enforcement officials that the Defendants could have been
4 there to purchase methamphetamine from Love or her companions and thus there was
5 reasonable suspicion to detain in this regard. The Court must find and conclude such to be an
6 unreasonable assumption and thus an unreasonable suspicion. The anonymous tip consisted
7 solely of the information that four individuals were manufacturing methamphetamine at the
8 Guam Reef Hotel. The anonymous tip did not state that the four individuals, in addition to
9 manufacturing methamphetamine, were also engaged in the distribution or sale of the same.
10 Thus, there could not exist any reasonable suspicion to believe the Defendants were there for
11 the purpose of purchasing methamphetamine. Moreover, Love never mentioned to the officers
12 that they were distributing or selling methamphetamine. The law enforcement's whole purpose
13 at the Guam Reef Hotel was to investigate the tip that four individuals were involved in the
14 manufacturing of methamphetamine.

15 The Court also notes that the Defendants were detained after the execution of the search
16 warrant on Room 755. This is important because the anonymous tip mentioned only that four
17 individuals were involved and connected to the methamphetamine manufacturing activities at
18 the Guam Reef Hotel. The tip provided no information that others could have been involved in
19 the manufacturing process. If others were so involved, such information could only have come
20 from Love, who was then cooperating with law enforcement officials, but there was no such
21 information. Once the warrant was executed, it would have been apparent to law enforcement
22 officials that the Defendants had no connection to the activities in Room 755 because the
23 number of individuals said to have been involved in the illegal manufacturing (four individuals
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25 ¹² The stop and detention of the Defendants here can be distinguished from the case
26 involving Shardae Love where the Court found that officers had reasonable suspicion to detain
27 her based on various factors, including the fact that at the time she was stopped, she had in her
28 possession objects used in manufacturing methamphetamine. Furthermore, Love provided
conflicting explanations about the use of the combustible fuel, which further arose police
suspicions.

1 in total) had all been accounted for. There was no reason to suspect or detain any other
2 individual. Love's similar reaction upon seeing the Defendants at the seventh floor could not
3 have provided further suspicion of criminal activity on the part of the Defendants because the
4 search warrant had already been executed. Her reactions upon seeing the Defendants at the
5 lobby area or at the seventh floor can only be interpreted as one of embarrassment. How else
6 can one reasonably explain such reaction upon seeing the Defendants after the execution of the
7 warrant upon Room 755? Love was surrounded by law enforcement officers both in the lobby
8 of the hotel and at the seventh floor. Anyone in Love's position would feel self-conscious as
9 well, and would react similarly to avoid being recognized by others. It is unreasonable to
10 associate Love's reactions with complicity on the part of the Defendants with the manufacturing
11 of methamphetamine or to the activities associated in Room 755.

12 Therefore, for the reasons stated above, the Court finds that law enforcement officials
13 had no reasonable suspicion to detain the Defendants as they exited the elevators on the seventh
14 floor of the Guam Reef Hotel. The Court also finds that the Defendants were seized at that
15 point in time by the said officials without probable cause. Thus, the Court finds and concludes
16 that the Defendants' detention was illegal from the start.

17 The Court further finds that even if this initial detention gave rise to reasonable
18 suspicion and was a legitimate investigative detention under Terry, the law enforcement
19 officials exceed the bounds of a permissible Terry stop. A Terry stop must be *brief*. Its *scope*
20 and *duration must be reasonable*. The investigation must be as *minimally intrusive* as possible,
21 keeping in mind the circumstances that gave rise to the suspicion.

22 In this matter, the Defendants were separated from one another and then questioned.
23 Once they were asked their names and they provided the same, they should have been released.
24 Their names did not match the names of those mentioned in the anonymous tip as associated
25 with the manufacturing of methamphetamine at the Guam Reef Hotel. The officials persisted in
26 asking further questions. Additionally, the stop was not brief. Rather, it exceed the scope and
27 duration of a reasonable detention, and it was not minimally intrusive. In this case, after the
28 Defendants had identified themselves and explained their reason for being at the hotel, the

police continued to detain them without any legitimate justification for the extended seizure. The government's attempt to justify this continued detention on the basis of officer safety and concern for the Defendants' safety is without merit. If the police were truly concerned about their own safety while executing the search warrant and securing Room 755, then an officer should have been assigned to automatically stop any and all individuals from exiting the elevator on the seventh floor. Said individuals should have been immediately advised that there was a police investigation taking place and that no one was permitted to get off on the seventh floor. This was not done. Additionally, if the officers were sincerely concerned about the possibility of exposing the Defendants to the toxic fumes, then the Defendants and others should have been immediately removed from the vicinity of Room 755 and possibly the entire seventh floor. Again, this was not done. The police never even attempted to evacuate the innocent occupants of Room 754, which was just a few feet away from Room 755. The Defendants were told to wait for an indefinite period while the officers awaited further instructions from Cho. The Defendant's continued detention appears to have been based more on the officers' general uncertainty of what to do next as opposed to a concern for their safety or the safety of the Defendants. Furthermore, any concern for the Defendants' based on the toxic fumes from Room 755 or the potential for explosion were eliminated once the officers were advised that Room 755 had been secured. Because the officers lacked probable cause to detain the Defendants longer than was necessary, the Court finds that the Defendants' Fourth Amendment rights against unreasonable seizures were violated.

CONCLUSION

22 Based on the foregoing, the Court hereby GRANTS the Defendants' motions to
23 suppress. The Government is precluded from presenting in its case in chief against the
24 Defendants all statements made by each of them and all articles seized from them, since these
25 items represent the tainted products of the unlawful police action. Based on the record before

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1 the Court, this evidence may form the only basis for the government's case against the
2 Defendants. Accordingly, the Government is directed to advise the Court by April 6, 2006,
3 whether it will continue to prosecute this case.

4 SO ORDERED this 29th day of March 2006.

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6 JOAQUIN V.E. MANIBUSAN, JR.
7 United States Magistrate Judge
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